S.B. CIVIL WRIT PETITION NO.2713/2007.

Gulab Chand
Vs.
Mangtu Ram and anr.

Date of Order :- 16/4/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri V.S. Chauhan for the petitioner.

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Heard the learned counsel for the petitioner.

The petitioner-defendant has challenged the order dated 14/3/2007 by which his application seeking amendment in his written-statement/reply to the election petition has been rejected.

Argument of the learned counsel for the petitioner-defendant is that apart from challenging the election, the respondent-plaintiff who was the loosing candidate has prayed that he should be declared elected in place of petitioner-defendant. The trial court has rejected the application of the petitioner-defendant on

the ground that the desired amendment would not be necessary for deciding the controversy whether the election of the petitioner-defendant was bad in law or not. The trial court has also observed that the relevant documents with regard to pendency of a criminal case against respondent-plaintiff have already been allowed to be taken on record under Order 8 Rule 1 C.P.C. with the permission of the court. Merely because those documents have been taken on record, would not mean that for examining those documents, if the question of recrimination arises, the pleadings would be necessary.

In my view, the learned trial court has not erred in rejecting the application of the petitioner-defendant. However, the trial court would be at liberty to look into the aforesaid documents as and when the occasion arises for recrimination.

With these observations, the writ petition is

dismissed.

(MOHAMMAD RAFIQ), J.

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